



CITY OF BURNABY

BOARD OF VARIANCE

NOTICE OF OPEN MEETING

MINUTES

A Hearing of the Board of Variance was held in the Council Chamber, Main Floor, City Hall, 4949 Canada Way, Burnaby, B.C., on Thursday, 2017 June 01 at 6:00 p.m.

1. CALL TO ORDER

PRESENT: Ms. Charlene Richter, Chair
Mr. Rana Dhatt, Citizen Representative
Mr. Stephen Nemeth, Citizen Representative
Mr. Wayne Peppard, Citizen Representative
Mr. Brian Pound, Citizen Representative

STAFF: Ms. Margaret Malysz, Planning Department Representative
Ms. Joy Adam, Planning Department Representative
Ms. Eva Prior, Administrative Officer

The Administrative Officer called the meeting to order at 6:00 p.m.

2. MINUTES

(a) **Minutes of the Board of Variance Hearing held on 2017 May 04**

MOVED BY MR. NEMETH
SECONDED BY MR. PEPPARD

THAT the minutes of the Burnaby Board of Variance Hearing held on 2017 May 04 be adopted as circulated.

CARRIED UNANIMOUSLY

3. **APPEAL APPLICATIONS**

The following persons filed application forms requesting that they be permitted to appear before the Board of Variance for the purpose of appealing for the relaxation of specific requirements as defined in the Burnaby Zoning Bylaw 1965, Bylaw No. 4742.

(a) APPEAL NUMBER: B.V. 6274

APPELLANT: Amrik Sahota

REGISTERED OWNER OF PROPERTY: Amrik, Jasbir and Amanbir Sahota

CIVIC ADDRESS OF PROPERTY: 3408 Dalebright Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 170; DL 58; Plan 34460

APPEAL: An appeal for the relaxation of Section 101.8 of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with secondary suite and attached garage at 3408 Dalebright Drive. This is a through lot with two front yards, it faces both Dalebright Drive and Lougheed Highway. The front yard setback from Lougheed Highway would be 60.52 feet where a minimum front yard depth of 70.63 feet is required based on front yard averaging.

A previous Board of Variance appeal (B.V. 6263, January 5, 2017) seeking relaxation of the front yard setback requirement from Lougheed Highway, from 70.63 feet to 64.46 feet was approved.

APPELLANT'S SUBMISSION:

Amrik Sahota submitted an application to allow for the construction of a new single family home with secondary suite and attached garage at 3408 Dalebright Drive.

Gurmukh Bhogal and Amrik Sahota appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

This property was the subject of an appeal before the Board on 2017 January 05 (BV # 6263). Two variances were sought to allow for the construction of a new single family dwelling with a secondary suite and detached garage observing a) a front yard setback measured from the detached garage to Lougheed Highway of 25.0 ft. where a minimum front yard setback of 70.63 ft. (based on front yard averaging) is required and b) a front yard setback measured from the principal building to Lougheed Highway of 64.46 ft. where a minimum front yard setback of 70.63 ft. is required. The first a) appeal was not supported by this Department and was denied by the Board of Variance. The second b) appeal was supported by this Department and was allowed by the Board of Variance.

Subsequently, in response to the decision of the Board, the applicant has revised the proposal to include an attached garage in the southeast corner of the building resulting in a front yard setback of 60.52 ft. measured from Lougheed Highway to the principal building. This is a reduction of 35.52 ft. from the previous variance request. As the detached garage has now been removed and a garage attached to the principal building is proposed, there is no longer a need for two front yard variance requests.

As a reminder, the subject site, zoned R1 Residential District, is located in a stable single-family neighbourhood in the Government Road area. This large through lot, approximately 70.0 ft. wide and 150.0 ft. long, fronts Dalebright Drive to the south and Lougheed Highway to the north. Single family dwellings abut the subject site to the east and west. A large industrial property and an elevated section of the Skytrain guideway are located directly across Lougheed Highway to the north. Vehicular access to the subject site is provided from Dalebright Drive. The site observes a downwards slope of approximately 8.6 ft. from the northwest (rear) corner to the southeast (front) corner.

A new single family dwelling with a secondary suite and attached garage are proposed for the subject site, for which a single variance has been requested.

The first a) appeal proposes the relaxation of Section 101.8 – “Front Yard” of the Burnaby Zoning Bylaw from 70.63 ft. (based on front yard averaging) to 60.52 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Lougheed Highway.

In this appeal Section 6.12 – “Yards” of the Zoning Bylaw allowing specific projections into the front yard will also be applicable.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were adopted to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

The front yard setback from Lougheed Highway is the setback for which the relaxation is requested. The front yard averaging calculations are based on the setbacks of the two dwellings immediately west of the subject site at 3388 and 3398 Dalebright Drive, and the two dwellings immediately east of the subject site at 3418 and 3428 Dalebright Drive. The front yard setbacks for these properties are 66.82 ft., 69.67 ft., 78.05 ft. and 67.97 ft. respectively.

It should be noted that these front yard setbacks function as rear yards, with no vehicular access provided from this side. In addition, the frontages along Lougheed Highway consist primarily of fencing and tall hedges or other screening, with the visibility of the residences further reduced by the depth of the intervening yards.

The proposed siting would place the subject dwelling 9.15 ft. in front of the

neighbouring dwelling immediately to the west and approximately 17.53 ft. in front of the neighbouring dwelling immediately to the east. The proposed front yard setback of 60.52 ft. is measured to the deck attached to the north face of the dwelling. The main body of the dwelling is proposed to be set back further by 7.0 ft., resulting in the distance of 67.52 ft. to the north fronting (Lougheed Highway) property line. In addition, the northwest and northeast (rear) corners of the dwelling are proposed to be recessed, 8.67 ft. and 12.18 ft. respectively, on both the main and upper floor levels. The proposed “stepped” design would help mitigate immediate massing impacts on the neighbouring residences to the west and east of the subject site.

The proposed reduction in the front yard setback is substantial. However, the extent to which the proposal exceeds the established setbacks must be considered in the context of future redevelopment of the neighbourhood, given that most of the surrounding homes were built in the early 1970’s to late 1980’s and reflect the development standards present at that time. In particular, the depth of most surrounding buildings ranges from approximately 30 ft. to 50 ft., significantly less than the 60 ft. depth that is permitted under prevailing zoning. While this does not represent a physical hardship, it is a substantial constraint that warrants consideration.

In addition, the function of this second front yard as a rear yard must be considered. Given the width and high traffic volumes that characterize Lougheed Highway, there is little chance that this frontage will serve any other function in the foreseeable future. For these reasons, it may be suitable to relax the front yard averaging requirements for the front yard, in order to permit the greater building depths provided for elsewhere in the Bylaw, while maintaining the generous frontages along Dalebright Drive.

In summary, the proposed relaxation is suitable given the relationship of the site and surrounding properties to Lougheed Highway, and may help to transition the development pattern of the neighbourhood to allow greater building depths consistent with prevailing zoning.

In view of the above, this Department does not object to the granting of this variance.

ADJACENT OWNER’S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND

SECONDED BY MR. DHATT

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: MR. NEMETH

(b) APPEAL NUMBER: B.V. 6275

APPELLANT: Tony Jiang

REGISTERED OWNER OF PROPERTY: Wei Deng

CIVIC ADDRESS OF PROPERTY: 7580 Dorchester Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 113; DL 43; Plan 41916

APPEAL: An appeal for the relaxation of Section 6.2(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with detached garage at 7580 Dorchester Drive. This is a through lot with two front yards; it faces both Dorchester Drive and Winston Street. The accessory building would be located in the Winston Street front yard, 42 feet from the front property line and 4 feet from the west property line, where no accessory building is permitted in the front yard.

APPELLANT'S SUBMISSION:

Tony Jiang submitted an application to allow for the construction of a new single family home with detached garage at 7580 Dorchester Drive.

Tony Jiang, agent for the homeowner and the daughter and niece of the homeowner appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R1 Residential District, is located in a stable single-family neighbourhood in the Government Road area. This large through lot, approximately 71.83 ft. wide and 197.16 ft. long on its longest side, is a rough trapezoid which fronts Dorchester Drive to the north and Winston Street to the south. Single family dwellings abut the subject site to the east and west. A driveway access to a large industrial development abuts the subject lot directly across Winston Street to the south. Vehicular access to the subject site is provided from Dorchester Drive. The site observes a downwards slope of approximately 4.45 ft. in the north-south direction. The site is restricted by a 40.0 ft. wide covenanted landscape buffer along the Winston Street property line and a 7.0 ft. wide Statutory Right of Way, for Sewerage and Drainage purposes, along its eastern property line.

The subject site is proposed to be developed with a new single family dwelling and detached garage, which is the subject of this appeal.

A building permit (BLD16-01253) was issued and demolition of the existing dwelling completed. Excavation for the proposed dwelling has begun; however, it was identified by City staff that the detached garage would be located within a required front yard. As a result, the applicant is requesting an appeal for relaxation to allow an accessory

building to be constructed in a required front yard.

The intent of the Bylaw in prohibiting construction of accessory buildings in front yards is to ensure a uniform streetscape and to limit impacts on neighbouring yards, such as loss of privacy.

The proposed accessory building, a detached two car garage, is located in the southwest corner of the property, adjacent to the side yard of 7570 Dorchester Drive. A large overhead garage door is proposed on the front elevation facing the proposed main dwelling and a 4.0 ft. wide by 4.0 ft. high window is proposed on the west facing the neighbouring side yard. A single man door is proposed on the east facing elevation of the garage.

A front yard setback of 30.11 ft. is proposed from Dorchester Drive to the foundation of the proposed dwelling, which exceeds the minimum 29.5 ft. front yard setback required in the R1 District. The front yard measured from Winston Street to the rear covered deck of the main dwelling is 95.54 ft. where a minimum of 82.26 ft. is required based on front yard averaging.

It should be noted that the front yard setbacks along Winston Street function as rear yards and are buffered by a continuous landscape belt, protected by covenant, which separates the yards from Winston Street, with no vehicular access provided from this side.

The proposed siting of the detached garage would have minimal impacts on the neighbouring dwellings to the east (3917, 3937 and 3957 Lozells Ave.) as it is set back 45.85 ft. from the adjoining property line which is bordered with an existing wood fence and various mature hedges. However, the neighbouring lot to the west (7570 Dorchester Drive) would have some view of the garage from their existing backyard green space. The main height of the garage would be screened by the existing wood fence bordering the property line; however, the top of the west facing window to the roof peak of the garage would be in view over the existing fence.

There would be no negative impacts on the property across Winston Street to the South, as the subject site has a 40.0 ft. landscape buffer along the south property line screening any views of the subject lot along Winston Street.

In summary, the requested variance would not conflict with the existing development pattern in the subject block and would create little impacts on the neighbouring properties. Therefore, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: MS. RICHTER

(c) **APPEAL NUMBER:** B.V. 6276

APPELLANT: Todd Senft and Maria Volk

REGISTERED OWNER OF PROPERTY: Faiza Hameer

CIVIC ADDRESS OF PROPERTY: 5520 Frances Street

LEGAL DESCRIPTION OF PROPERTY: Lot 3; DL 127; Plan 1342

APPEAL: An appeal for the relaxation of Section 104.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for a new rear sundeck to the main floor and new sundeck on the upper floor at 5520 Frances Street. The depth of the principal building would be 65.06 feet where a maximum depth of 60 feet is permitted.

APPELLANT'S SUBMISSION:

Todd Senft submitted an application to allow for the retention of an existing rear sundeck to the main floor and an existing sundeck on the upper floor at 5520 Frances Street.

Hanif Hameer appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject property, which is zoned R4 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the age and condition of single and two family dwellings vary. This interior lot is approximately 66.0 ft. wide and 131.98 ft. deep. The site is neighboured by single family dwellings across Frances Street to the north (front), to the south (rear) and to the east and west (sides). Vehicular access to the site is via Frances Street to the north. The site observes a downward slope of approximately 16.0 ft. in the north-south direction.

The site is improved with a single family dwelling and an attached garage, built in 1979.

Subsequently, a building permit was applied for to complete various alterations to the

existing dwelling. Through the permitting process, it was identified by City staff that the deck to the rear of the existing dwelling had been constructed without the benefit of a building permit. Currently, a building permit (BLD 16-01530) has been issued for interior alterations to the building while a separate permit (BLD17-00137) for the exterior alterations including the deck built without permit, remains pending.

The appeal is to vary Section 104.8(1) – “Depth of Principal Building” of the Zoning Bylaw from 60.0 ft. to 65.06 ft. in order to allow the retention of the existing deck.

The intent of the Bylaw is to prevent the creation of overlong houses which present a long “wall” to their neighbours. In this case, the requested variance occurs at the southwest corner of the existing dwelling, where the deck projects beyond the rear face of the house.

The subject building exceeds the maximum permitted building depth by 5.06 ft. The portion of the building where the excess building depth occurs is limited to the existing rear deck in the southwest corner of the dwelling. The house and attached garage are 57.5 ft. long, and the existing deck and stairs, extends a further 15.0 ft. into the backyard. The deck is approximately 8.67 ft. above the ground level basement patio, unroofed, and enclosed by an aluminum railing with slender pickets. The design of the deck is unobtrusive and does not contribute to the massing of the house. The deck would be accessed directly from the main floor and give access to the ground level backyard.

With respect to the neighbouring dwellings, the existing dwelling to the west (5510 Frances St) is screened by an existing wood fence and several mature trees at the height of the subject deck. The eastern lot (5524 Frances St.) is currently under construction for a new single family dwelling with attached garage and secondary suite. The proposed dwelling would sit approximately 9.0 ft. in front of the subject site deck measured to the proposed deck on the neighbouring site. There is an existing wood fence that borders the adjoining eastern property line. As the portion of the subject site that is in excess of the required building depth would be set back approximately 34.9 ft. from the adjoining property line, little impacts are expected on the neighbouring property to the east. The neighbour to the south (5521 Georgia St.) is completely screened by an existing fence and various mature trees bordering the adjoining property line.

In view of the broader neighbourhood context, decks to the rear of a dwelling are common practice throughout this neighbourhood.

In summary, the requested variance would not conflict with the existing development pattern in the subject block, and would create little impacts on the neighbouring properties. Therefore, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. DHATT
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

As the next appeal was scheduled for 6:30 p.m., the Chair called for a recess.

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

THAT the Board of Variance Hearing recess until 6:30 p.m.

CARRIED UNANIMOUSLY

The Board of Variance recessed at 6:25 p.m.

MOVED BY MR. DHATT
SECONDED BY MR. NEMETH

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 6:36 p.m.

(d) **APPEAL NUMBER:** B.V. 6277

APPELLANT: Rey Lim

REGISTERED OWNER OF PROPERTY: Robin Arora

CIVIC ADDRESS OF PROPERTY: 4720 Fairlawn Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 19; DL 123; Plan 15924

APPEAL: An appeal for the relaxation of Section 6.6(1)(c) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new detached garage to an existing single family home at 4720 Fairlawn Drive. The detached garage would be setback .5 feet from the lane where a minimum setback of 3.94 feet is required.

APPELLANT'S SUBMISSION:

Robin Arora submitted an application to allow for the construction of a new detached garage to an existing single family home at 4720 Fairlawn Drive.

Rey Lim, Robin Arora and Anand Thakral appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site is zoned R10 Residential District and is located in the Brentwood neighbourhood where the age and condition of existing single and two family dwellings vary. This interior rectangular lot is approximately 60.0 ft. wide and 121.95 ft. deep. It fronts Fairlawn Drive to the north and a lane to the south. The subject site abuts single family lots to the east, west, and across Fairlawn Drive to the north. Vehicular access to the subject site is provided via the lane to the south. The site observes a substantial downward slope of approximately 19.54 ft. in the north-south direction.

The subject site is developed with an existing single family dwelling with a secondary suite which was recently renovated in accordance with BLD15-01850. An existing detached garage in the southeast corner of the property was removed as part of the site improvements. The proposed two car garage that is the subject of this appeal is proposed to sit in the southeast corner of the property 0.5 ft. from the rear property line and 4.0 ft. from the eastern side property line, similar siting to the existing demolished garage. There is an existing approximate 9.5 ft. high retaining wall located directly north in front of the proposed garage which supports the existing concrete parking area at the lane elevation. An existing stair leads down from the lane elevation in the southwest corner of the property meeting the existing grade of the rear outdoor space of the subject site.

The a) appeal is to vary Section 6.61(1)(c) Accessory Buildings and Uses of the Zoning Bylaw from 3.94 ft. to 0.5 ft. for the required minimum setback from any lane.

The intent of the Bylaw in limiting the distance from accessory buildings to the rear lane is to limit the massing impacts of such structures on neighbouring properties.

The accessory building, which serves as a two car garage, is tucked into the southeast corner of the lot. The structure is proposed at the same level as the rear lane. There is an existing 9.5 ft. high retaining wall located directly north of the proposed garage that continues along the width of the property. The retaining wall helps to address the challenging topography on this property and bring transition and access to the rear lane. Siting the garage 3.94 ft. from the lane would place the proposed garage directly over the existing retaining wall which would then require significant topographic adjustments to the site.

With respect to the broader neighbourhood context, existing garages border the lane on both sides throughout the length of the lane. The neighbour directly southwest also

has a garage directly located off the lane with a rear setback below the required 3.94 ft. by the Zoning Bylaw. Directly northeast the neighbour does not have a garage at the rear lane. There is a large gravel parking pad supported by an existing retaining wall which would be directly in view of the proposed garage. However, there would be little negative impacts on either neighbour directly beside the subject site.

Across the lane are single family dwellings with garages accessed directly from the lane. As garages accessed directly off the lane are prevalent in this neighbourhood, the proposed garage would not disturb the existing neighbourhood context.

In summary, the requested variance would not conflict with the existing development pattern in the subject block and would create little impacts on the neighbouring properties. Therefore, this Department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

A letter was received from the resident of 4696 Fairlawn Drive opposing the requested variance. The homeowner expressed concern that allowing the reduced setback would impact visibility of vehicles and pedestrians on the lane.

The resident of 4730 Fairlawn Drive appeared requesting information regarding the zoning bylaw in relation to a detached garage.

MOVED BY MR. PEPPARD
SECONDED BY MR. POUND

THAT based on the plans submitted this appeal be DENIED.

CARRIED

OPPOSED: MR. DHATT

(e) **APPEAL NUMBER:** B.V. 6278

APPELLANT: Gary Gao and Joe Yue

REGISTERED OWNER OF PROPERTY: Ya Deng and Lixiu Xue

CIVIC ADDRESS OF PROPERTY: 4958 Portland Street

LEGAL DESCRIPTION OF PROPERTY: Lot D; DL 158; Plan 18634

APPEAL: An appeal for the relaxation of Sections 102.6(1)(a) and 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with secondary suite and attached garage at 4958 Portland Street. The following variances are

being requested: a) A principal building height of 33.30 feet, measured from the rear average grade, where a maximum of 29.50 feet is permitted. The principal building height from the front average grade would be 29.10 feet; and b) the front yard depth would be 19.50 feet where a minimum front yard depth of 24.50 feet is permitted.

APPELLANT'S SUBMISSION:

Ya Nan Deng submitted an application to allow for the construction of a new single family home with secondary suite and attached garage at 4958 Portland Street.

Joe Yue and Ya Deng appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Sussex-Nelson area, in a mature single family neighbourhood. This slightly irregular (trapezoid shaped) interior lot is approximately 198.8 ft. wide along its frontage onto Portland Street to the north and approximately 178.8 ft. deep along the east (side) property line. Abutting the site to the west and south are single family dwellings. Immediately east is Frogger's Creek Ravine Park. (The undeveloped section of Portland Street right of way continues into the park area further to the east of the subject.) Vehicular access to the site is provided from Portland Street; no lane access is available.

The site topography presents a challenge by the fact that the south-eastern (diagonal) portion of the site (approximately a half of the overall lot area) is occupied by the Frogger's Creek steep ravine. The terrain within the ravine drops significantly, approximately 87.0 ft., towards the south-eastern corner of the site. The remaining north-western portion of the lot observes a moderate downward slope of approximately 10.0 ft. from the north-west corner towards the ravine to the south-east.

Due to the presence of Frogger's Creek, which runs roughly on angle in relation to the east (side) property line, this proposal is subject to the Streamside Protection and Enhancement Area (SPEA) regulations provided in Section 6.23 of the Zoning Bylaw. In 2016 August 10, the Environmental Review Committee (ERC) supported the proposal to vary the SPEA streamside setback requirement of 32.8 ft. (10 m) to 26.2 ft. (8 m) at the southeastern portion of the site. This decision is subject to registration of a Section 19 covenant for protection and enhancement of the SPEA, including a 'no-build' restriction consistent with the recommendations in the geotechnical report, which is now in process.

It is noted that the location of the creek and the associated 'no build' setback significantly impacts the area available for development, by limiting this area to the north-western corner of the site. A triangular space remaining between the required front yard setback and these features would be approximately 5 % of the lot area.

The subject site is proposed to be re-developed with a new single family dwelling,

including a secondary suite and an attached garage, for which two variances have been requested.

The second b) appeal will be discussed first and the first a) appeal comments will follow.

The second b) appeal proposes the relaxation of Section 102.8(1) – “Front Yard” of the Burnaby Zoning Bylaw from 24.6 ft. to 19.5 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Portland Street. Section 6.12 – “Yards” of the Zoning Bylaw which allows specific projections into the front yard will also be applicable.

The intent of the Bylaw is to mitigate the massing impacts of new buildings and structures on neighbouring properties and to preserve a unified streetscape.

The requested variance is directly related to the unusual site topography, which, as mentioned above, limits the developable area to a small triangular space in the north-western corner of the lot. This is reflected in the proposed footprint of the dwelling, which closely follows the angled SPEA streamside setback along its south-eastern parameter, with not much room left for modifications.

In this case, the front yard setback is measured to the foundation of the main body of the building, with two proposed bay windows at the main floor and two bay windows at the upper floor which project a further 1.5 ft. into the front yard. The proposed dwelling would also have various recesses at the main floor and upper floor. For example, the one-storey garage attached to the most eastern portion of the dwelling would be set back 1.33 ft. from the main front face. In addition, the upper floor would be set back 15.0 ft. from the main front face at its most eastern portion (which does not extend over the attached garage to the east).

The proposed siting of the subject dwelling in the north-western corner of the site would be consistent with the siting of the previous dwelling (now demolished) in the same area. (The previous dwelling observed a front yard setback of approximately 21.5 ft., which was legal non-conforming with respect to the front yard setback.)

The proposed siting would be in line with the neighbouring dwelling to the west, which observes a front yard setback of 19.48 ft. As such, there would be no significant change to the existing massing relationship between the proposed dwelling and the neighbouring residence to the west.

Further, the proposed stepped design of the upper floor in both directions: from the north (front) and east (side), would help mitigate massing impacts of the proposed front yard on the neighbouring properties across Portland Street to the north.

With regard to the broader neighbourhood context, the two lots remaining in the subject block, immediately west of the subject site, observe similar or lesser setbacks (19.48 ft. and 10.5 ft. respectively) than proposed front yard setback. As such, the

siting of the proposed dwelling would be not out of ordinary within the existing streetscape.

In summary, given the presence of the stream setback on the subject site and the minimal impacts of this proposal on the neighbouring properties and the existing neighborhood, this Department does not object to the granting of this second b) variance.

The first a) appeal proposes the relaxation of Section 102.6(1)(a) – “Height of Principal Building” of the Burnaby Zoning Bylaw from 29.50 ft. (a maximum height permitted for a building with a sloping roof) to 33.30 ft., as measured from the average rear elevation.

The intent of the Bylaw is to mitigate the massing impacts of new buildings or structures on neighbouring properties.

In this case, the height calculation is based on existing natural grade at the rear elevation, which is also the proposed grade. As noted above, the grade difference from the front to the rear of the subject site contributes to the excess height at the rear elevation. The proposed height encroachment of 3.8 ft. would extend approximately from the mid-point of the roof area to the roof peak. This encroachment area would be set back approximately 8.0 ft. - 9.0 ft. from the rear south façade. When viewed from the west and east sides, the proposed dwelling would appear to not exceed 29.5 ft. in height, as a result of the sloping terrain. Further, it should be noted that the principal building height measured from the average front elevation would be 29.10 ft., which is 0.4 ft. less than the permitted maximum height.

In any case, the large size of this property will alleviate any potential impacts on the neighbouring properties to the south. The proposed over height condition would occur approximately 120.0 ft. from the rear property line. Further, it is not expected that the Frogger's Creek ravine area, which extends into the lots immediately south of the subject site, would be developed in the future.

In summary, considering the size of the property, the site topography, and the proposal's minimal impacts on the neighbouring properties, this Department does not object to the granting of this first a) variance.

ADJACENT OWNER'S COMMENTS:

Correspondence dated May 23 and May 25 was received requesting confidentiality. The writer advised that they were opposed to the variances due to the unstable soil and the possibility of the home sinking or sliding down the slope.

A local resident appeared expressing concern regarding the stability of the soil/slope in the area.

No further correspondence was received regarding this appeal.

MOVED BY MR. POUND
SECONDED MR. DHATT

THAT based on the plans submitted part (a) of this appeal be ALLOWED.

CARRIED

OPPOSED: MS. RICHTER

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT based on the plans submitted part (b) of this appeal be ALLOWED.

DENIED

FOR: MR. POUND
MR. DHATT

OPPOSED: MR. NEMETH
MR. PEPPARD
MS. RICHTER

(f) **APPEAL NUMBER:** B.V. 6279

APPELLANT: Sarban Rai, RAI Development

REGISTERED OWNER OF PROPERTY: Reinhardt Adano, Megumi Mizuno and Sachiko Mizuno

CIVIC ADDRESS OF PROPERTY: 4537 Marine Drive

LEGAL DESCRIPTION OF PROPERTY: Lot A; DL 157; Plan 17543

APPEAL: An appeal for the relaxation of Section 102.8(1) of the Burnaby Zoning Bylaw which, if permitted, would allow the construction of a new single family home with attached garage at 4537 Marine Drive. The front yard depth would be 24.60 feet where a minimum front yard depth of 46.28 feet is required based on front yard averaging.

APPELLANT'S SUBMISSION:

John Adano and Megumi Mizuno submitted an application to allow for the construction of a new single family home with attached garage at 4537 Marine Drive.

Ms. Mizuno appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R2 Residential District, is located in the Sussex-Nelson neighbourhood, in which the age and condition of single family dwellings vary. This interior lot, approximately 53.3 ft. wide and 102.6 ft. deep, has a 63.8 ft. frontage on the north side of Marine Drive. This portion of Marine Drive runs on an angle; as a result, most of lots in the block, including the subject lot, have a parallelogram shape. Abutting the subject site across the lane to the north, and to the east and west on Marine Drive are single family dwellings. The site observes a substantial downward slope from the northwest corner of the lot at the lane to the southeast corner of the property at Marine Drive, dropping 16.7 ft. over 139.0 ft. Vehicular access to the site is provided from the rear lane (north).

The subject lot is the last lot served by the rear lane in the western direction; the lane right-of-way terminates at the west side property line of the subject site. In relation to this, the lots to the west of the subject site are much deeper lots (almost three times deeper), than the subject lot and the remaining five lots in the eastern terminus of the subject block.

A new single family dwelling with an attached garage is proposed for the subject site, for which a variance to the front yard setback requirement is requested.

The appeal proposes the relaxation of Section 102.8(1) – “Front Yard” of the Burnaby Zoning Bylaw from 46.28 ft. (based on front yard averaging) to 24.6 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required front yard abutting Marine Drive. Section 6.12 – “Yards” of the Zoning Bylaw which allows specific projections into the front yard will also be applicable.

In 1991, Council responded to public concerns regarding the bulk and massing of newer and larger homes that were being built in existing neighbourhoods. Several text amendments to the Zoning Bylaw were adopted to address these concerns, including a requirement to set new construction back from the front property line based on an average of the two dwellings on either side of the subject site. The intent was to help to ease new construction into existing street frontages with minimal impact.

In this case, the front yard averaging calculations are based on the front yard setbacks of the two dwellings at 4515 and 4527 Marine Drive west of the subject site, and on the front yard setbacks of the two dwellings at 4549 and 4559 Marine Drive to the east. These front yards are 79.10 ft., 54.98 ft., 28.51 ft. and 22.51 ft., respectively. The existing dwellings at 4515 and 4527 Marine Drive affect the front yard averaging calculations. It is noted that these residences are sited on the lots which are approximately 261.0 ft. and 291.0 ft. deep, respectively. In addition, the front property line on the subject lot (and the lot immediately to the east) is set back approximately 6.0 ft. in relation to the front property lines on the lots further to the west and east. This offset further affects the front yard calculations.

The proposed front yard setback is measured perpendicular to Marine Drive, which is skewed at an approximately 30 degree angle in relation to the side property lines. As a result, the residences along Marine Drive are staggered in relation to each other, even if a similar front yard setback depth is observed. This is also reflected in the “staggered” form of the proposed dwelling, with the western section set back 10.67 ft. from the eastern section. The front yard setback is measured to the foundation at the southwest corners of these two parts (which are the closest points to the front property line). Due to the parallelogram geometry of the site, this distance would gradually increase up to approximately 35.0 ft. at the center of the dwelling, where the porch is proposed, or to approximately 33.0 ft. at the southeast corner.

With the exception to the southeastern portion, the siting of the proposed dwelling would be consistent with the placement of the dwelling currently existing on the subject site (which is legal non-conforming with respect to the front yard setback). The southeastern portion would project approximately 10.0 ft. further to the south; however, it would remain approximately 10.0 ft. behind the neighbouring residence to the east. This neighbouring residence does not feature windows on its west elevation (facing the subject site), so this change to the existing massing relationship would create a little impact. With respect to the neighbouring residences to the west, the siting of the dwelling would be almost identical to the existing conditions. The western section of the dwelling would closely match the footprint of the existing dwelling.

Furthermore, with the proposed 29.5 ft. deep rear yard (the minimum required), there is no room to locate the dwelling further to the rear. In this context and considering the required averaged front yard (46.28 ft.), the developable area available on the subject site would be substantially reduced.

In terms of the general neighbourhood context, the requested front yard setback would be consistent with the “staggered” alignment of the neighbouring residences in the subject block. Further, the proposed front yard encroachment would not be noticeable from the Marine Drive streetscape.

In summary, considering the challenging geometry of the site and the existing development pattern, as well as the absence of any anticipated negative impacts on the adjacent properties and the existing streetscape, this Department **does not object** to the granting of **this variance**.

ADJACENT OWNER'S COMMENTS:

No correspondence was received regarding this appeal.

MOVED BY MR. POUND

SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

(g) APPEAL NUMBER: B.V. 6280

APPELLANT: Joel Nelson, Victoreric Design Group

REGISTERED OWNER OF PROPERTY: Peter and Rebecca Cheung

CIVIC ADDRESS OF PROPERTY: 5361 Meadedale Drive

LEGAL DESCRIPTION OF PROPERTY: Lot 228; DL 126; Plan 32082

APPEAL: An appeal for the relaxation of Section 102.6(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for an upper floor addition to an existing single family dwelling with new secondary suite in the basement, and new detached garage at 5361 Meadedale Drive. The following variances are being requested:

a) The height of the principal building, measured from the rear average grade, would be 38.52 feet where a maximum height of 29.50 feet is permitted; and

b) the height of the principal building, measured from the front average grade, would be 38.14 feet where a maximum height of 29.50 feet is permitted.

APPELLANT'S SUBMISSION:

Joel Nelson submitted an application to allow for an upper floor addition to an existing single family dwelling with new secondary suite in the basement, and new detached garage at 5361 Meadedale Drive.

Eric Lee and Peter and Rebecca Cheung appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject property, zoned R2 Residential District, is located in the Parkcrest-Aubrey neighbourhood in which the age and condition of single family dwellings vary. This interior lot is approximately 60.0 ft. wide and 120.0 ft. deep. The site is neighbored by single family dwellings across Meadedale Drive to the southwest (front), across the lane to the northeast (rear) and to the southeast and northwest (sides). Vehicular access to the site is provided from the rear lane. The site observes a moderate downward slope of approximately 14.6 ft. in the north-south direction.

The subject site contains a two storey single family dwelling, consisting of a basement and main floor which were originally built in 1968. The applicant proposes various additions and interior alterations to the dwelling, including an upper (third) floor addition, new secondary suite in the basement and a new detached garage. The upper floor addition only is the subject of two appeals.

The first a) appeal proposes a building height of 38.52 ft., measured from the rear average elevation, where a maximum height of 29.50 ft. is permitted for a building with a sloping roof.

The second b) appeal proposes a building height of 38.14 ft., measured from the front average elevation, where a maximum height of 29.50 ft. is permitted for a building with a sloping roof.

Section 102.6 (2) of the Zoning Bylaw states that for a principal building that exists on December 16, 1991, the height of any addition, measured from the lower of the front average elevation or the rear average elevation to the highest point of the addition, shall not to exceed 29.5 ft. if the building has a sloping roof.

The intent of the Bylaw for measuring the building height from the lower of the front average elevation or the rear average elevation is to ensure that no section of a building exceeds the maximum permitted building height. This requirement is to minimize the visual impact of the building mass on the neighbouring properties.

In this case, the proposed building exceeds the permitted building height of the buildings with a sloping roof at the rear and front elevation. The proposed addition would be considered a third-storey, due to the lowest level being considered a "basement", rather than a "cellar", and therefore, considered a "storey". However, the Bylaw does not limit a number of storeys to 2 /12 storey for principal buildings that exist before December 16, 1991.

With respect to the first a) appeal, the height encroachment of 9.02 ft. would occur approximately from the bottom of fascia/gutter line, approximately 0.5 ft. above the top of windows, to the top of the roof, over the entire width of the rear elevation (48.27 ft.). Similarly, with respect to the second b) appeal, the height encroachment of 8.64 ft. would occur approximately from the top of fascia/gutter line to the top of the roof, over the entire width of the front elevation.

The excess height will add bulk to the dwelling and the dwelling will appear as a three storey form as viewed from the rear and front elevation, as well as from the sides. Therefore, the requested variances will create substantial massing impacts on the surrounding properties and impact views from the neighbouring residences, particular across Meadedale Drive to the southwest, as these properties are at lower levels.

Although it is recognized that the building is located on a moderate slope, the building height exceeding the permitted height, by 9.02 ft. and 8.64 ft. at the rear and front, respectively, is due to the design choice rather than a grade difference. Although the footprint of the existing basement is proposed to be slightly expanded (by 7.4 ft.) to the northeast (rear) side, the existing/proposed grades surrounding the dwelling perimeter remain in the close range (169.28 ft. – 170.34 ft.).

There are design options to lessen the impacts on the neighbouring properties and to bringing this proposal closer to compliance with the height requirements of the Bylaw.

These options include a more substantial horizontal expansion, as opposed to a vertical expansion, of the existing dwelling. With over 30.0 ft. of the rear yard depth available between the rear face of the subject dwelling and the proposed detached garage, other design options exist to expand horizontally, rather than proposing an upper floor (approximately 1,220 sq. ft. in area) above almost the entire main floor (approximately 1,540 sq. ft. in area). Another design consideration could be limiting the use of high volume spaces (which are currently proposed in the hall area and the bedroom area) and slightly lowering the clear height of the upper floor (which is proposed to be 9.0 ft.).

With respect to the broader neighbourhood context, the block consists of mostly mature single family dwellings. The majority of these existing dwellings are two storey dwellings fronting onto Meadedale Drive. Therefore, the proposed height variances of the subject dwelling would be major relaxations and very noticeable in relation to the existing neighbourhood context and street frontage.

Further, the property's topographical condition does not represent a unique hardship; most of the properties on the northeast side of Meadedale Drive have similar topographies. As such, the implications of the proposed major variances on the existing neighbourhood and the future development (this application may set a precedent for the future development of the neighbouring properties) must be considered. In this broader context, the granting of the requested variances could undermine the integrity of the Bylaw.

For the above reasons reason, this Department objects to the granting of the first a) and second b) appeals.

ADJACENT OWNER'S COMMENTS:

Correspondence dated May 19 was received requesting confidentiality. The writer expressed concern regarding the loss of views, loss of property value and loss of characteristic of the neighbourhood.

Correspondence dated May 22 was received requesting confidentiality. The writer expressed concern regarding the loss of view and property value.

Correspondence dated May 23 was received requesting confidentiality. The writer expressed concern regarding the loss neighbourhood characteristic and loss of sunlight.

Correspondence dated May 23 was received requesting confidentiality. The writer advised that allowing this height variance would set a precedent in the neighbourhood.

Correspondence was received from the resident of 5372 Meadedale Drive expressing concern regarding the height variance being requested.

The appellants presented support letters from residents of 5360, 5353, 5409 and 5425 Meadedale Drive.

The resident at 5354 Meadedale appeared expressing concerns regarding the loss of privacy and views.

No further correspondence was received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

THAT based on the plans submitted part (a) of this appeal be ALLOWED.

DENIED

FOR: MR. NEMETH

OPPOSED: MR. POUND
MR. PEPPARD
MR. DHATT
MS. RICHTER

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

THAT based on the plans submitted part (b) of this appeal be ALLOWED.

DENIED

FOR: MR. NEMETH

OPPOSED: MR. POUND
MR. PEPPARD
MR. DHATT
MS. RICHTER

h) **APPEAL NUMBER:** B.V. 6281

APPELLANT: Lucky Jawanda

REGISTERED OWNER OF PROPERTY: Lucky and Sons Development LTD

CIVIC ADDRESS OF PROPERTY: 1135 (and 1137) Yorston Court

LEGAL DESCRIPTION OF PROPERTY: Lot 468; DL 135; Plan 53876

APPEAL: An appeal for the relaxation of Section 104.9 of the Burnaby Zoning Bylaw which, if permitted would allow for the construction of a new two family dwelling with attached garage and accessory building at 1135 (and 1137) Yorston Court. The depth of the front yard would be 24.6 feet where a minimum of 73.1 feet is required based on front yard averaging.

APPELLANT'S SUBMISSION:

Lucky Jawanda submitted an application to allow for the construction of a new two family dwelling with attached garage and accessory building at 1135 (and 1137) Yorston Court.

Lucky and Robin Jawanda appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R4 Residential District, is located in a stable single and two family neighbourhood in the Lochdale area. This interior lot is approximately 82.44 ft. wide along its frontage onto Yorston Court to the east and 132.01 ft. deep along its north side property line. Single family dwellings abut the site to the north, west and east, and a two family dwelling abuts the site to the south. Vehicular access to the subject site is provided from Yorston Court, there is no lane access. The subject site observes a downward slope in the west-east direction of approximately 2.2 ft.

The subject lot is proposed to be re-developed with a new two family dwelling, attached garage and accessory building.

The appeal proposes the relaxation of Section 104.9 – “Front Yard” of the Burnaby Zoning Bylaw from 73.1 ft. (based on front yard averaging) to 24.6 ft. as measured to the foundation of the attached garage of the proposed two family dwelling. Section 6.12 – “Yards” of the Zoning Bylaw which allows specific projections into the front yard will also be applicable.

In 1991, Council responded to the public concerns with respect to the bulk and massing of the newer and larger homes that were built in the established neighbourhoods. Several text amendments to the Zoning Bylaw were made to address these concerns, including the requirement of a larger front yard where the average front yard depth of the two dwellings on either side of the subject site exceeds the required front yard applicable to the zone. The larger front yard requirement should be calculated through the “front yard averaging”. The intent of the amendment was to improve the consistency and harmony of the new construction with the existing neighbourhood.

In this case, the front yard averaging calculations are based on the two neighbouring properties to the south 1189 Yorston Court and 1206 Duthie Ave and the two neighbouring properties to the north 1125 and 1111 Yorston Court. These front yards are 25.11 ft., 207.28 ft., 30.28 ft. and 29.73 ft. respectively. The second neighbouring property to the south (1206 Duthie Ave) affects these calculations.

The proposed front yard setback is measured to the foundation of the attached garage located on the east face of the building. The remaining front façade of the subject dwellings continues in line with the garage to the front porch post where it is then recessed by 1.66 ft. on the northeast corner of the main floor and is mirrored on the

southeast corner. The upper floor of the subject dwelling is also staggered with additional recesses of 1.67 ft. and 2.67 ft. from the face of the garage.

With respect to the neighbouring residences to the south (1189 Duthie Ave) and north (1125 Yorston Court) of the subject site, little impacts are expected. When examined from corner to corner the proposed dwelling would actually sit 1.16 ft. further back than the dwelling to the south and 4.0 ft. in front of the dwelling to the north. The latter is bordered by a wood fence and retaining wall along the north adjoining property line which would help reduce negative impacts from massing on the northern neighbour. Various mature shrubs and trees border the subject site to the south helping to mitigate any negative effects on the southern neighbour. (The existing dwelling on the subject site observes a front yard setback of approximately 25.0 ft.)

With reference to the broader neighbourhood context, with the exception of 1206 Duthie Ave (second lot to the south of the subject site), the proposed siting of the dwelling would be consistent with the majority of the dwellings within the subject block. If the subject site were to meet the front yard averaging and rear yard setback requirements of the Zoning Bylaw the proposed building would only be able to have a building depth of 29.41 ft. and would not be in line with the existing siting of the majority of the dwellings in this neighbourhood. In summary, since the proposed front yard variance would not create negative impacts on the neighbouring properties and the existing streetscape, this department does not object to the granting of this variance.

ADJACENT OWNER'S COMMENTS:

No submissions were received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. NEMETH

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED UNANIMOUSLY

The Chair called for a brief recess.

MOVED BY MR. NEMETH
SECONDED BY MR. PEPPARD

THAT the Board of Variance Hearing recess.

CARRIED UNANIMOUSLY

The Board of Variance recessed at 7:55 p.m.

MOVED BY MR. POUND
SECONDED BY MR. NEMETH

THAT the Board of Variance Hearing reconvene.

CARRIED UNANIMOUSLY

The Board of Variance reconvened at 8:03 p.m.

(i) **APPEAL NUMBER:** B.V. 6282

APPELLANT: Joe Manhas 1083966 B.C. LTD

REGISTERED OWNER OF PROPERTY: 1083966 BC LTD

CIVIC ADDRESS OF PROPERTY: 6038 McKee Street

LEGAL DESCRIPTION OF PROPERTY: Lot 14; DL 159; Plan 1813

APPEAL: An appeal for the relaxation of Section 6.12(3)(a)(i) of the Burnaby Zoning Bylaw which, if permitted, would allow for the construction of a new single family home with an attached garage at 6038 McKee Street. The side yard setbacks would be 2.33 feet where a minimum side yard setback of 2.95 feet is required.

APPELLANT'S SUBMISSION:

Joe Manhas submitted an application to allow for the construction of a new single family home with an attached garage at 6038 McKee Street.

Joe Manhas appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, which is zoned R5 Residential District, is located in the Clinton-Glenwood neighbourhood, in which the age and condition of single and two-family dwellings vary. This interior lot, 16.49 ft. wide and 121.49 ft. deep, fronts onto the south side of McKee Street. Single family dwellings are located immediately west, east and directly across the lane to the south of the subject site. The subject site observes a downward slope of approximately 11.4 ft. from the front to the rear. Vehicular access to the site is provided via the rear lane.

The subject lot is a small vacant lot, which was originally created in April 1911, prior to the existence of the Burnaby Zoning Bylaw. Until recently the subject lot was one of the two legal lots which shared the same address: 6058 McKee Street. In March 2017, the subject (western) lot received an approval for a new civic address: 6038 McKee Street, with the remaining (eastern) lot holding the old address.

Currently, the Building Department in receipt of building permit applications for each of the two lots. Under the building permit, ref. # BLD 17-00026, made in January 2017, the subject lot is proposed to be developed with a single family dwelling, including attached garage, which is the subject of this variance.

The appeal proposes the relaxation of Section 6.12.(3)(a)(i) – “Yard” of the Burnaby Zoning Bylaw from 2.95 ft. to 2.33 ft. The purpose of this variance is to allow the construction of a single family dwelling encroaching into the required side yard.

The intent of the Bylaw is to mitigate the impacts of building massing on neighbouring properties.

In this case, the proposed 0.62 ft. side yard encroachment would be limited to the basement level and would occur over approximately 40.0 ft. of the side elevations length, starting from the rear corners. Due to the sloping terrain, the exposed basement walls with a reduced side yard setback would vary in height from approximately 9.5 ft. and 8.0 ft. at the western and eastern rear corner respectively, to approximately 4.5 ft. at the 2/3 point of the building’s overall depth. Otherwise, the distance between the west and east side property lines to the western and eastern face of the dwelling’s main and upper floor is proposed to be 2.95 ft. This distance would correspond with the minimum side yard setback requirement.

It is noted that the west and east side yard encroachments are related to the fact that the basement is proposed to contain an attached garage with two tandem parking spaces. The additional basement width is necessary to provide the clear parking width of 10.5 ft., required if a parking space is adjacent to the wall.

Further, given the relatively small scale of the proposed side yard encroachment, little impacts are expected to the neighbouring properties to the west and east of the subject site. The residence to the west features a limited amount of windows in the overlap area, facing the subject site. Similarly, the design of a single family dwelling, proposed under the building permit, ref. # BLD 16-01868, for the property to the east (at 6058 McKee Street) indicates that all windows on the west side, facing the subject site, would be above the top of the basement wall level.

In view of the above, this Department does not object to the granting of this variance.

ADJACENT OWNER’S COMMENTS:

Correspondence was received from the homeowners of 5908 McKee Street in opposition to the construction and subsequent variances to the proposed single family home.

The authors cited concerns regarding: noise, traffic congestion, lack of privacy, deviation from the character of the neighbourhood, unpermitted uses and fire safety concerns.

Petition letters were received from the following residents/homeowners opposing the proposed construction of the home on 6038 McKee Street;

5910, 5928, 5975, 6030, 6061, 6080, 6087, 6092, 6108, 6121 and 6126 McKee Street and 5975, 6011, 6037, 6063, 6087, 6107 and 6125 Ewart Street.

The petition read as follows:

I am opposed to allowing a new home to be built on the 16.5 foot lot located at 6058 McKee Street, Burnaby BC

I object because I feel it will increase neighbourhood traffic on the street and in the lane, it would increase noise, create parking problems for existing homeowners, create possible dangerous conditions for emergency responders, and add to a lack of privacy. It would be inconsistent with the other homes in the neighbourhood and it also sets a dangerous precedent for Burnaby to be forced to allow anyone in the city to build on a 16.5 foot lot. It also would change the feel and character of our neighbourhood.

The residents of 5908 McKee Street appeared expressing concern regarding the side yard setbacks.

No further submissions were received regarding this appeal.

MOVED BY MR. NEMETH
SECONDED BY MR. DHATT

THAT based on the plans submitted this appeal be ALLOWED.

CARRIED

OPPOSED: MS. RICHTER
MR. PEPPARD

(j) **APPEAL NUMBER:** B.V. 6283

APPELLANT: Steven Petersson

REGISTERED OWNER OF PROPERTY: Maktab Tarighat Oveyssi
Shahmaghsoudi (School of Islamic
Sufism)

CIVIC ADDRESS OF PROPERTY: 140 Esmond Avenue

LEGAL DESCRIPTION OF PROPERTY: Lot 19; DL 186; Plan 1124

APPEAL: An appeal for the relaxation of Section 531(1) of the Local Government

Act and 105.10(2) of the Burnaby Zoning Bylaw which, if permitted, would allow for the structural addition to the existing legal non-conforming church at 140 Esmond Avenue. These additions would include a proposed roof over the entry and ramp down to the lower level of the existing legal non-conforming church. The following variances are being requested:

- a) To exempt from Section 531(1) of the Local Government Act to allow for structural addition to the existing legal non-conforming church; and
- b) To vary Section 105.10(2) of the Burnaby Zoning Bylaw to allow for a null (0) width of the flanking street side yard where a minimum side yard of 9.84 feet is required.

APPELLANT'S SUBMISSION:

Steven Petersson submitted an application to allow for the structural addition to the existing legal non-conforming church at 140 Esmond Avenue.

Steven Petersson appeared before members of the Board of Variance.

BURNABY PLANNING AND BUILDING DEPARTMENT COMMENTS:

The subject site, zoned R5 Residential District, is located in the Burnaby heights neighbourhood in which the age and condition of single and two-family dwellings vary. This corner lot, approximately 61.1 ft. wide and 100.1 ft. deep, fronts Esmond Avenue to the west and flanks Pandora Street to the south. Abutting the site to the north and east are single family dwellings. Vehicle access to the site is proposed from Esmond Avenue; there is no lane access available. The lot is relatively flat with a downward slope of approximately 3.3 ft. from the east (rear) to the west (front).

The subject property contains an existing church, built originally in 1929/50, which is a legal non-conforming use. The church is proposed to be further improved with a pedestrian ramp access to the lower level and associated roof cover over the side entry. The roof cover is the subject of two variances, which are co-related.

The first a) appeal is to allow an exterior structural addition to the existing legal non-conforming church.

The *Local Government Act* prohibits a structural alteration or addition to a building or other structure containing a non-conforming use, except as permitted by a Board of Variance under Section 541(1).

The second b) appeal would permit the construction of a roof cover observing a null flanking street side yard setback where a minimum flanking street side yard setback of 9.84 ft. is required.

The intent of the Bylaw is to mitigate the impact of massing on neighbouring properties.

With respect to both variances requests, the existing building is legal-nonconforming with respect to the flanking street (Pandora Street) side yard to the south. The church observes a continuous 8.58 ft. setback on this side, over its approximately 77.3 ft. long south faces. In the case of a corner lot, the Bylaw requires the principal building to be located not closer than 9.84 ft. to the flanking street.

This proposal would add a small roof, approximately 8.6 ft. deep by 9.3 ft. wide, over the side entry. This addition would project slightly off center and to the east of the south elevation.

The proposed roof form would be open to the sides, west and east, and enclosed with a solid wall at its south face. This wall would be aligned with the south property line. (No further projections from the face of this wall would be allowed into the street right of way.) The addition would appear as approximately 6.3 ft. high to the top of arched roof form, when viewed from Pandora Street, due to the grade difference between the lower entry level and the adjacent street grades.

In summary, considering the small scale of the proposed exterior addition, this proposal would have no negative impacts on neighbouring properties and would not increase the intensity of use on the subject site; rather, the proposal improves accessibility aspects of the existing development on the subject site.

In view of the above, this Department does not object the granting of both first a) and second b) variances.

ADJACENT OWNER'S COMMENTS:

Petition letters were received in support of the proposed variance from 3795, 3808, 3818 and 3827 Pandora, 120 Esmond Street, #302-4363 Halifax Street, 4757 Frances Street, 7468 Burris Street, 6340 Buckingham Drive, 3728 East Hastings and 405-3740 Albert Street.

The letter read as follows:

I am a neighbor of 140 Esmond Avenue. I support the MTO's application to add a vestibule and wheelchair ramp to their entrance fronting Pandora Street.

No correspondence was received regarding this appeal.

MOVED BY MR. PEPPARD
SECONDED BY MR. POUND

THAT based on the plans submitted part (a) of this appeal be ALLOWED.

CARRIED UNANIMOUSLY

MOVED BY MR. PEPPARD
SECONDED BY MR. NEMETH

THAT based on the plans submitted part (b) of this appeal be ALLOWED.

CARRIED UNANIMOUSLY

4. **NEW BUSINESS**

No items of new business were brought forward at this time.

5. **ADJOURNMENT**

MOVED BY MR. POUND
SECONDED BY MR. DHATT

THAT this Hearing do now adjourn.

CARRIED UNANIMOUSLY

The Hearing adjourned at 8:55 p.m.

Ms. C. Richter, CHAIR

Mr. R. Dhatt

Mr. S. Nemeth

Mr. W. Peppard

Ms. E. Prior
ADMINISTRATIVE OFFICER

Mr. B. Pound